

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LEON WARREN WEATHERS,

Plaintiff,

Hon. Janet T. Neff

v.

Case No. 1:08-cv-00722

HOLLAND POLICE DEPARTMENT, et al.,

Defendants.

REPORT AND RECOMMENDATION

On January 28, 2009, the court issued an Order Setting Rule 16 Scheduling Conference, which set a scheduling conference for February 23, 2009 at 10:00 a.m. Plaintiff did not appear for the conference, nor did he contact the court. Three weeks later, Plaintiff filed a motion for rescheduled Rule 16 conference, which motion was granted. A Rule 16 conference was set for April 24, 2009, but was rescheduled to May 15, 2009 at 11:00 a.m. Notice of the hearing was mailed to Plaintiff.

Although counsel for defendant and the judge were present, Plaintiff did not appear for the May 15, 2009 hearing. Nor did he contact the court. An Order to Show Cause entered on May 15, 2009, ordering Plaintiff to show cause why his case should not be dismissed for failure to prosecute (Dkt. 34). On May 22, 2009, Plaintiff responded to the Order to Show Cause (Dkt. 35). Plaintiff claimed he did not appear for the conference due to flu-like symptoms. He gave no reason for his failure to contact the court or opposing counsel.

In Defendant's response to the Order to Show Cause, counsel states that Plaintiff also has taken no steps to comply with the Order Setting Rule 16 Scheduling Conference. He did not initiate or participate in pre-conference discussion of the case or preparation of the status report.

It is clear that Plaintiff feels an injustice has been done to him. However, he is not following the court's orders. Plaintiff has done nothing to pursue or prosecute his claims but ask for another chance when dismissal of his case is imminent.

As such, the undersigned hereby recommends that this matter be dismissed pursuant to Fed. R. Civ. P. 41(b) and W.D.Mich. L.Civ.R. 41.1 for want of prosecution and failure to comply with the rules and orders of this court. Timely objections to this Report and Recommendation shall be considered Plaintiff's opportunity to show cause why this matter should not be dismissed.

Respectfully submitted,

Date: June 22, 2009

/s/ Ellen S. Carmody
ELLEN S. CARMODY
United States Magistrate Judge

OBJECTIONS to this Report and Recommendation must be filed with the Clerk of Court within ten (10) days of the date of service of this notice. 28 U.S.C. § 636(b)(1)(C). Failure to file objections within the specified time waives the right to appeal the District Court's order. *Thomas v. Arn*, 474 U.S. 140, 155 (1985); *United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981).